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OGILVY RENAULT LLP 1, Place Ville Marie SUITE 2500 MONTREAL, QC H3B 1R1 CANADA			EXAMINER	THAI, HANH B
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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* OMID MCDONALD, PHILIP PAINTER, and  
DAVID MCDONALD

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Appeal 2009-004440  
Application 09/987,828  
Technology Center 2100

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Decided: March 23, 2010

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Before JOHN A. JEFFERY, JAMES D. THOMAS, and HOWARD B.  
BLANKENSHIP, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 2-22, 24, and 25. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

*Invention*

A method and system for detecting change to a record in a file stored on an electronic token involves storing a change detection code (CDC) so that a change detection applet can calculate a current CDC for corresponding record(s), and compare the current CDC with the stored CDC to determine if data has changed.

(Abstract, ll. 1-6; Spec. 22; Figs. 1, 2, 6.)

*Representative Claim*

6. A method applied by an electronic token comprising a microprocessor and a memory for identifying changed records among a plurality of records stored in the memory of the electronic token, the method comprising:  
for each one of the plurality of records:  
calculating in the electronic token a respective change detection code (CDC) associated with the record ; and  
comparing in the electronic token the calculated CDC with a corresponding stored CDC associated with the record in order to determine if the record has been changed since the stored CDC was calculated; and  
if the calculated CDC of at least one of the plurality of records is not equal to the corresponding stored CDC, preparing a Short message Service (SMS) message in the electronic token and sending the SMS message from the electronic token to a registering element, which SMS message includes a content of at least one record which has been identified as changed, and saving the calculated CDC of the record as the stored CDC of the record.

*Prior Art and Examiner's Rejection*

The Examiner relies on the following references as evidence of unpatentability:

Ahlgren	6,968,209 B1	Nov. 22, 2005 (filed Feb. 22, 2000)
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Dietrich	6,055,442	Apr. 25, 2000
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All claims on appeal, claims 2 -22, 24, and 25, stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the Examiner relies upon Ahlgren in view of Dietrich.

*Claim Groupings*

Appellants' arguments in the principal brief in toto reflect that independent claim 6 is representative of the subject matter of independent claims 6, 15 and 24.

ISSUE

Did the Examiner err in finding that the combination of Ahlgren in view of Dietrich teaches the feature of calculating, comparing, and preparing and sending a message, each within the electronic token?

FINDINGS OF FACT ("FF")

1. Although the initial lines of column 4 of Ahlgren make reference to an art recognized GSM standard for subscriber identity modules (SIMs), Ahlgren does not specify in his patent the nature of the actual circuitry on/within his SIM card itself. On the other hand, Ahlgren does perform functions of comparing and the generation of

a checksum based upon a cyclic redundancy check as disclosed in this application. Figures 1-3 of Ahlgren also illustrate that various data messages or communications occur on the link 30 between a host or PC10 and a mobile phone 20; the nature of these communications is not detailed. Where the logical function of comparing occurs and where the calculation of the checksum/CRC occurs is not clearly disclosed in Ahlgren.

2. Dietrich illustrates in Figure 1 a subscriber smart card or SIM card within a mobile phone which is taught to receive or recognize short message service (SMS) messages from a host location using a GSM standard. No corresponding calculation of checksums or CRC codes is stated to occur. Nonetheless, the teachings in Dietrich do indicate that the functionality within the subscriber smart card is capable of comparing addresses.

## ANALYSIS

For the sake of rendering a decision on this appeal, we assume for the sake of argument that the teachings of Ahlgren and Dietrich are properly combinable within 35 U.S.C. § 103. Additionally, our issue statement reflects Appellants' three principal arguments beginning of page 7 of the principal brief as well as beginning of page 4 of Reply Brief.

Our FFs 1 and 2 briefly reflect the major teachings pertinent to this appeal of Ahlgren and Dietrich relied upon by the Examiner. The combination of teachings, however, does not indicate to us that any calculation function occurs within the SIM card of Ahlgren even though this reference does teach the calculation of checksums/CRC codes. They may

occur at the illustrated PC 20. There is no corresponding teaching at all of any calculation being performed in the smart card/SIM card of Dietrich.

Each of independent claims 6, 15, and 24 on appeal requires a calculation of respective change detection codes to occur in the electronic token or SIM card itself. The collective teachings of Ahlgren and Dietrich do not indicate to us that such calculation occurs in the electronic token or SIM card itself. Absent a clear teaching to address Appellants' arguments and the limitation recited in the independent claims on appeal, we would be speculating to agree with the Examiner's views in the rejection. This we will not do. There is no additional evidence provided to us that the token/SIM cards of Ahlgren and Dietrich normally have a processing capability that permits calculating.

#### **CONCLUSION AND DECISION**

Appellants have shown that the Examiner erred in finding that the combination of Ahlgren and Dietrich teaches the claimed feature in each independent claim of calculating in an electronic token respective change detection codes.

Therefore, the Examiner's rejection of all claims on appeal, claims 2-22, 24, and 25, under 35 U.S.C. § 103 is reversed.

**REVERSED**

Erc

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